

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS**FILED**

Jun 2 2008

JUN 2 2008

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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTJames G. Turner-42

Petitioner,

-VS-

NOTICE OF APPEAL

CASE NO. 08 C 226408 C 2264Donald A. Halich

Respondent,

NOTICE OF APPEAL

Notice is hereby given that James G. Turner-42 above named,
appeals to the United States Court of Appeals for the Seventh Circuit from
the denial of Federal Habeas Corpus Petition by the U.S. District
Court for the Northern District of Illinois

(attach extra page if necessary)

entered in this action on 4/29/08

Respectfully submitted,

/s/ J.M. J SPDECLARATION UNDER PENALTY OF PERJURY

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/1-109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: 5/9/08

/s/ J.M. J SP
NAME: James G. Turner-42
DOC#: N-0116
Menard Correctional Center
P.O. BOX 711
Menard IL 62255

FILED

No. _____

JUN 2 2008 MB

IN THE

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

FOR THE SEVENTH CIRCUIT

U.S. ex rel J. G. Turner-46,
Petitioner

) Appeal from the United
) States District Court for
) the Northern District
) of Illinois.

-VS-

Donald A. Hulick,
Respondent

) Case no. 08 C 2264

) The Honorable
) John W. Darrach,
) Judge, Presiding.

NOTICE OF FILING

TO: Michael W. Dobbins/ Clerk
U.S. District Court
215 S. Dearborn Street
Chicago, IL 60604

PLEASE TAKE NOTICE that on or before the 23 day of
May 2008, ~~1997~~, I shall cause to be filed with the Clerk of
the Court, United States Court of Appeals for the Seventh Circuit
the attached Notice of Appeal
a copy of which is hereby served upon you.

BY: James B. J SP, Pro-se.
James G. Turner-46, pro-se.
P.O. Box 711,
Menard, Illinois 62259-0711

CERTIFICATE OF SERVICE

I, James G. Turner-46, being duly sworn aver that I have
served copies of the foregoing to the person named above by
placing such copies in the U.S. Mailbox at the Menard
Correctional Center on the 23 day of May 2008, ~~1997~~ first
class postage prepaid. UNDER THE PENALTY OF PERJURY THE FOREGOING
IS TRUE AND CORRECT. Executed on May 2008, ~~1997~~. 28
U.S.C. Section 1746.

James B. J SP
Affiant

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 08cv2264

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

James G. Turner-EL (appellant)	Donald A. Hulik (appellees)
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(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	James G. Turner-EL	Name	N/A
Firm	PRO SE #N-01161	Firm	
Address	Menard -MND P.O. Box 711 Menard, IL 62259	Address	
Phone	N/A	Phone	

Other Information			
District Judge	Darrah	Date Filed in District Court	4/29/08
Court Reporter	M. Hacker (ext 5564)	Date of Judgment	5/1/08
Nature of Suit Code	530	Date of Notice of Appeal	6/2/08

COUNSEL:

Appointed

☐

Retained

☐

Pro Se

☒

FEE STATUS:

Paid

☐

Due

☐

IFP

☐

IFP Pending

☐

U.S.

☐

Waived

☒

Has Docketing Statement been filed with the District Court Clerk's Office?

Yes

☒

No

☐

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted

☐

Denied

☐

Pending

☐

If Certificate of Appealability was granted or denied, date of order:

If defendant is in federal custody, please provide U.S. Marshall number (USM#):

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

Additional Counsel

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name		Name	
Firm		Firm	
Address		Address	
Phone		Phone	

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name		Name	
Firm		Firm	
Address		Address	
Phone		Phone	

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name		Name	
Firm		Firm	
Address		Address	
Phone		Phone	

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name		Name	
Firm		Firm	
Address		Address	
Phone		Phone	

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name		Name	
Firm		Firm	
Address		Address	
Phone		Phone	

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IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

FILED

Jun 2 2008

JUN 2 2008

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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

United States of America ex rel.
James G. Turner-EL,

Petitioner- Appellant,

-v-

Donald A. Hulick, et al.,

Respondent-Appellees.

No. 08 C 2264

08 C 2264

The Honorable
John W. Darrah,
U.S. Judge presiding.

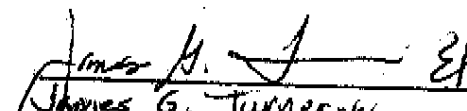
DOCKETING STATEMENT

Jurisdiction of the district court was pursuant 28 U.S.C.
2254, Appellate Jurisdiction is pursuant F.R.A.P. Rule(s) 3 and
4.

Appeal is taken from judgement denying Habeas relief on
the date of May 29, 2008 by the U.S. District Court for the
Northern District of Illinois. No motions for a new trial or to
alter judgement was filed.

Notice of Appeal was filed on the date May 23, 2008, no
extensions of time was sought.

Respectfully submitted,


James G. Turner-EL
N. 01161
M.C.C.
P. O. Box 711
Menard, IL. 62259

✓ correct date judgement entered was April 29, 2008

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

U.S. ex rel. J.G. Turner et al.
Plaintiff,

v.

Donald A. Hulick, et al.
Defendant

)
)
)
)
)
)

Case No. 08 C 2264

PROOF/CERTIFICATE OF SERVICE

TO: W. Dobbins / Clerk
U.S. District Court
219 S. Dearborn St.
Chgo, IL 60604

TO: Lisa Madigan
Attorney General
100 W. Randolph St.
Chgo, IL 60601

TO: _____

TO: _____

PLEASE TAKE NOTICE that on May 23, 2008, I have placed the documents listed below in the institutional mail at Menard Correctional Center, properly addressed to the parties listed above for mailing through the United States Postal Service: Docketing Statement

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/1-109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: 5/23/08

/s/ James G. Turner et al
NAME: James G. Turner et al
IDOC#: N-01161
Menard Correctional Center
P.O. BOX 711
Menard, IL 62289

United States District Court, Northern District of Illinois

MHN

Name of Assigned Judge or Magistrate Judge	JOHN W. DARRAH <i>John W. Darrah</i>	Sitting Judge If Other than Assigned Judge	
CASE NUMBER	08 C 2264	4-29-08 DATE	4-29-08
CASE TITLE	U.S. ex rel. James G. Turner-El (#N-01161) vs. Donald Hulick, et al.		

DOCKET ENTRY TEXT:

The petitioner's motion for leave to file *in forma pauperis* [#3] is granted. However, this successive petition for a writ of habeas corpus is dismissed for lack of jurisdiction pursuant to 28 U.S.C. § 2244(b)(3). The case is terminated. The petitioner's motions for appointment of counsel [#5], for leave to file in this district [#6], and for the clerk to make photocopies [#7] are denied as moot. A copy of Circuit Rule 22.2 is attached to this order. Pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254, the clerk is directed to mail a copy of the petition to the Chief, Criminal Appeals Division, Attorney General's Office, 100 West Randolph Street, 12th Floor, Chicago, Illinois 60601.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

James Turner-El, a state prisoner, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petitioner challenges his convictions for armed robbery, attempted murder, and unlawful restraint on the ground the imposition of an extended-term sentence was unconstitutional. More specifically, the petitioner contends that the "maximum extended term of sixty years" denied him due process, deprived him of equal protection of the law, amounted to "cruel and unusual" punishment, and has subjected him to serving illegal "double-time," with no credit on his federal sentence.

The petitioner having shown that he is indigent, his motion to proceed *in forma pauperis* is granted. However, the court has reviewed the petition and finds that it must be dismissed for lack of jurisdiction. Under the Antiterrorism and Effective Death Penalty Act of 1996, a habeas petitioner must obtain prior leave from the court of appeals before the district court can consider a second or successive petition. See 28 U.S.C. § 2244(b)(3)(A). The petitioner in the case at bar filed an earlier habeas corpus petition, *Turner-El v. Hinsley*, Case No. 04 C 6889 (N.D. Ill.). This court dismissed that petition as untimely by Minute Order of January 4, 2005 (Darrah, J.). The petitioner makes no showing that the U.S. Court of Appeals for the Seventh Circuit has granted him leave to file a second habeas corpus petition. The court therefore has no jurisdiction to consider the petitioner's renewed application for habeas corpus relief under § 2254. See *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996); *In re Page*, 170 F.3d 659 (7th Cir. 1999).

(CONTINUED)

mjm

STATEMENT (continued)

For the foregoing reasons, the court grants the petitioner's motion for leave to file *in forma pauperis* but summarily dismisses the habeas corpus petition without prejudice to re-filing suit should the petitioner obtain leave to file from the Seventh Circuit Court of Appeals. All pending motions are denied as moot. Attached to this order is a copy of Circuit Rule 22.2. Circuit Rule 22.2 explains the procedures the petitioner must follow to obtain leave from the Seventh Circuit Court of Appeals to file a second or successive habeas corpus petition.

Circuit Rule 22.2. Successive Petitions for Collateral Review

(a) A request under 28 U.S.C. § 2244(b) or the final paragraph of 28 U.S.C. § 2255 for leave to file a second or successive petition must include the following information and attachments, in this order:

(1) A short narrative statement of all claims the person wishes to present for decision. This statement must disclose whether any of these claims has been presented previously to any state or federal court and, if it was, how each court to which it was presented resolved it. If the claim has not previously been presented to a federal court, the applicant must state either:

(A) That the claim depends on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court; or

(B) That the factual predicate for the claim could not have been discovered previously through the exercise of due diligence and that the facts, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the applicant guilty of the crime, had there been no constitutional error.

(2) A short narrative statement explaining how the person proposes to establish the requirements mentioned above. An applicant who relies on a new rule of constitutional law must identify the new rule, the case that establishes that rule, and the decision of the Supreme Court that holds this new rule applicable to cases on collateral review.

(3) Copies of all opinions rendered by any state or federal court previously rendered in the criminal prosecution, any appeal, and any collateral attack.

(4) Copies of all prior petitions or motions for collateral review.

(b) A copy of the application, together with all attachments, must be served on the attorney for the appropriate government agency at the same time as the application is filed with the court. The application must include a certificate stating who was served, by what means, and when. If the application is made by a prisoner who is not represented by counsel, filing and service may be made under the terms of Fed. R. App. P. 4(c).

(c) Except in capital cases in which execution is imminent, the attorney for the custodian (in state cases) or the United States Attorney (in federal cases) may file a response within 14 days. When an execution is imminent, the court will not wait for a response. A response must include copies of any petitions or opinions that the applicant omitted from the papers.

(d) The applicant may file a reply memorandum within 10 days of the response, after which the request will be submitted to a panel of the court for decision

(e) An applicant's failure to supply the information and documents required by this rule will lead the court to dismiss the application, but without prejudice to its renewal in proper form.

APPEAL, HABEAS, MASON, PC, TERMED

United States District Court
Northern District of Illinois – CM/ECF LIVE, Ver 3.2.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:08-cv-02264
Internal Use Only

Turner-EL v. Hulick et al
Assigned to: Honorable John W. Darrah
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 04/29/2008
Date Terminated: 04/30/2008
Jury Demand: None
Nature of Suit: 530 Prisoner: Habeas
Corpus
Jurisdiction: Federal Question

Petitioner

James G. Turner-EL
United States of America ex rel

represented by **James G. Turner-EL**
#N-01161
Menard – MND
P.O. Box 711
Menard, IL 62259
PRO SE

V.

Respondent

Donald A. Hulick

Respondent

Lisa Madigan
Attorney General of the State of Illinois

Service List

represented by **Chief of Criminal Appeals Illinois**
Attorney General
100 West Randolph
12th Floor
Chicago, IL 60601
ATTORNEY TO BE NOTICED

Prisoner Correspondence – Internal Use Only
Email: Prison1_ILND@ilnd.uscourts.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/21/2008	<u>1</u>	RECEIVED Petition for Writ of Habeas Corpus and no copies by James G. Turner (Exhibits). (ca,). (Entered: 04/23/2008)
04/21/2008	<u>2</u>	CIVIL Cover Sheet. (ca,) (Entered: 04/23/2008)
04/21/2008	<u>3</u>	APPLICATION by Plaintiff James G. Turner for leave to proceed in forma pauperis (Exhibits). (ca,) (Entered: 04/23/2008)
04/21/2008	<u>4</u>	PETITION for Writ of Habeas Corpus and Testificandum filed <u>1</u> by James G. Turner. (ca,) (Entered: 04/23/2008)
04/21/2008	<u>5</u>	MOTION by Plaintiff James G. Turner to appoint counsel. (ca,) (Entered: 04/23/2008)
04/21/2008	<u>6</u>	EMERGENCY MOTION for leave of the court granting plaintiff court permission to file his complaint in this district by Plaintiff James G. Turner. (ca,) (Entered: 04/23/2008)

04/21/2008	<u>7</u>	MOTION for an order authorizing the clerk of the court to photocopy documents and serve all parties and judicial council by Plaintiff James G. Turner. (ca,) (Entered: 04/23/2008)
04/21/2008	<u>8</u>	LETTER to the Clerk of the Court from James G. Turner filed April 21, 2008. (ca,) (Entered: 04/23/2008)
04/21/2008	<u>9</u>	POST MARKED envelope for initiating document by James G. Turner-EL (Document not scanned) (aew,) (Entered: 04/28/2008)
04/29/2008	<u>10</u>	MINUTE entry before Judge Honorable John W. Darrah: The petitioner's motion for leave to proceed in forma pauperis <u>3</u> is granted. However, this successive petition for a writ of habeas corpus is dismissed for lack of jurisdiction pursuant to 28 U.S.C. Section 2244(b)(3). The case is terminated. The petitioner's motions for appointment of counsel <u>5</u> , for leave to file in this district <u>6</u> , and for the clerk to make photocopies <u>7</u> are denied as moot. A copy of Circuit Rule 22.2 is attached to this order. Pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254, the clerk is directed to mail a copy of the petition to the Chief, Criminal Appeals Division, Attorney General's Office, 100 West Randolph Street, 12th Floor, Chicago, Illinois 60601. Mailed notice (cdy,) (Entered: 05/01/2008)
04/29/2008	<u>11</u>	MOTION by Petitioner James G. Turner-EL for order authorizing the clerk of the court to photocopy and serve all the parties in this proceedings. (Poor Quality Original - Paper Document on File). (kj,) (Entered: 05/02/2008)
04/29/2008	<u>12</u>	MOTION by Petitioner James G. Turner-EL to hold proceedings in abeyance pending determination of Illinois Supreme Court as to petitioner's late notice of appeal. (kj,) (Entered: 05/02/2008)
04/30/2008		(Court only) ***Civil Case Terminated. (cdy,) (Entered: 05/01/2008)
05/01/2008		MAILED copy of petition for writ of habeas corpus to Chief, Criminal Appeals Division with copy of minute order dated 4/29/08 (cdy,) (Entered: 05/01/2008)
05/05/2008	<u>13</u>	MOTION by Petitioner James G. Turner-EL for an order to Law Librarian to photocopy exhibits to be brought in this Habeas proceeding. (kjc,) (Entered: 05/08/2008)
05/08/2008	<u>14</u>	MOTION by Petitioner James G. Turner-EL to hold Habeas Corpus petition in abeyance pending Illinois Supreme Court's determination of late notice of appeal. (kj,) (Entered: 05/12/2008)
05/08/2008	<u>15</u>	MOTION by Petitioner James G. Turner-EL for an order to direct the clerk of the court to photocopy these documents and serve parties. (kj,) (Entered: 05/12/2008)
05/12/2008	<u>16</u>	MINUTE entry before Judge Honorable John W. Darrah: The petitioner's motions for the clerk to make photocopies <u>11</u> , to hold this case in abeyance <u>12</u> , and for an order directing the law librarian to photocopy exhibits <u>13</u> are denied as moot. By Minute Order of April 29, 2008, the court dismissed this successive petition for a writ of habeas corpus for lack of jurisdiction pursuant to 28 U.S.C. Section 2244(b)(3). This case is closed. Mailed notice (cdy,) (Entered: 05/14/2008)
06/02/2008	<u>17</u>	NOTICE of appeal by James G. Turner-EL regarding orders <u>10</u> fee waived. (air,) (Entered: 06/04/2008)
06/02/2008	<u>18</u>	DOCKETING Statement by James G. Turner-EL regarding notice of appeal <u>17</u> . (air,) (Entered: 06/04/2008)